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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

\* \* \*

CARL VON BRADLEY,

Plaintiff,

v.

MGM RESORTS,

Defendant.

Case No. 2:19-cv-00922-JAD-BNW

**ORDER**

Nevada state-prison inmate Carl Von Bradley submitted initiating documents to the court on May 30, 2019, which included an application to proceed *in forma pauperis* (IFP) and a civil rights complaint under 42 U.S.C. § 1983. (ECF Nos. 1, 1-1.) He also filed a motion requesting that the court stay the filing fee. (ECF No. 2.) Plaintiff's IFP application was incomplete because it did not include the financial certificate, which is on page four of the form application. Additionally, plaintiff did not submit an inmate account statement for the past six months. The court therefore denied plaintiff's IFP application without prejudice and provided a date by which Plaintiff was to file a complete IFP application or pay the filing fee. (ECF No. 4.) Plaintiff did not meet this deadline, and accordingly, the Court issued a Report and Recommendation that Plaintiff's case be dismissed without prejudice. (ECF No. 5.)

Five days after the Court issued this Report and Recommendation, Plaintiff filed a Motion for Reconsideration. (ECF No. 6.) Plaintiff states that he attempted to pay the filing fee before the deadline but, due to issues inside the prison where he is incarcerated, was unable to get payment to the Court. (*Id.*) Based on the information provided by Plaintiff, the Court will vacate its Report and Recommendation. Plaintiff has until January 20, 2020 to pay the filing fee or file a complete IFP application.


IT IS THEREFORE ORDERED that the Court's Report and Recommendation (ECF No. 5) be VACATED.

1 IT IS FURTHER ORDERED that the Clerk of Court must send plaintiff a blank  
2 application to proceed *in forma pauperis* by an inmate as well as the accompanying instruction  
3 packet.

4 IT IS FURTHER ORDERED that by January 20, 2020, plaintiff must either: (1) file a  
5 complete application to proceed *in forma pauperis*, on the correct form with complete financial  
6 attachments, or (2) pay the full \$400 fee for filing a civil action, which includes the \$350 filing  
7 fee and the \$50 administrative fee.

8 IT IS FURTHER ORDERED that failure to timely comply with this order may result in a  
9 recommendation that this case be dismissed.

10  
11 DATED: December 18, 2019

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15 BREND A WEKSLER  
16 UNITED STATES MAGISTRATE JUDGE  
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United States District Court  
DISTRICT OF NEVADA

\_\_\_\_\_  
**Plaintiff/Petitioner,**  
v.  
\_\_\_\_\_  
**Defendant/Respondent,**

**APPLICATION TO PROCEED  
IN FORMA PAUPERIS  
FOR INMATE**

**CASE NUMBER:**

I, \_\_\_\_\_, declare that I am the (*check the appropriate box*)

\_\_\_ Plaintiff  
(filing 42 U.S.C. § 1983)

\_\_\_ Movant  
(filing 28 U.S.C. § 2255 motion)

\_\_\_ Petitioner  
(writ of habeas corpus  
28 U.S.C. §§ 2254 or 2241)

\_\_\_ Other  
\_\_\_ Defendant/Respondent

in this case. I am unable to prepay the fees of this proceeding or give security because of my poverty. I acknowledge and consent that a portion of any recovery, as directed by the court, shall be paid to the clerk for reimbursement of all fees incurred by me as a result of being granted leave to proceed *in forma pauperis*.

In further support of this application, I answer the following questions:

1. Are you presently employed?    \_\_\_Yes            \_\_\_No
  - a. If the answer is “yes,” state the amount of your salary or wages per month, and give the name and address of your employer. (List gross and net salary.)
  - b. If the answer is “no,” state the date of last employment and the amount of the salary or wages per month which you received.
2. Have you received within the past twelve months any money from any of the following sources?
  - a. Business, profession or other form of self-employment?    \_\_\_Yes            \_\_\_No

- |    |   |                              |                             |
|----|---|------------------------------|-----------------------------|
| b. | Rent payments, interest or dividends?           | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| c. | Pensions, annuities or life insurance payments? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| d. | Gifts or inheritances?                          | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| e. | Any other sources?                              | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

If the answer to any of the above is "yes," describe each source of money and state the amount received from each during the past twelve months.

3. Do you own any cash, or do you have money in checking or savings accounts (include any funds in prison accounts, and any funds on deposit with a bank, saving & loan, etc., outside the prison) ?

☐ Yes ☐ No

If the answer is "yes," state the total value and list the location of each account, type of account, and amount or balance in the account. Do not include your account number(s).

4. Do you own or have any interest in any real estate, stocks, bonds, notes, trusts, automobiles or other valuable property (excluding ordinary household furnishings and clothing)?

☐ Yes ☐ No

If the answer is "yes," describe the property, its location and state its approximate value.

5. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support each month.

6. Do you receive any income from disability, Social Security or any other pension?

☐ Yes ☐ No

If the answer is "yes," describe the source and amount received each month.

7. Have you placed any property, assets or money in the name or custody of anyone else in the last two years?

☐ Yes ☐ No

If the answer is "yes," give the date, describe the property, assets or money, give the name of the person given custody of the item and the reason for the transfer.

## ACKNOWLEDGMENT

I, the undersigned, acknowledge that I have read the foregoing and that the information contained therein is true and correct to my own knowledge and belief.

Further, I state that I have not directly or indirectly paid or caused to be paid to any inmate, agent of an inmate, or family member of any inmate a sum of money, favors or anything else for assistance in the preparation of this document or any other document in connection with this action.

Further, I acknowledge that if any of the information included in this motion for leave to proceed *in forma pauperis* is false or misleading, I understand that sanctions may be imposed against me. Those sanctions may include, but are not limited to, the following:

- (1) dismissal of my case with prejudice;
- (2) imposition of monetary sanctions;
- (3) the Nevada Department of Prisons may bring disciplinary proceedings for a violation of MJ-48 of the Code of Penal Discipline, which can include all sanctions authorized under the Code including the loss of good time credits and punitive confinement; and
- (4) perjury charges.

Further, I hereby authorize the United States District Court, District of Nevada, or its representative, to investigate my financial status, and authorize any individual, corporation, or governmental entity to release any such information to the said Court or its representative.

Further, I acknowledge and consent that a portion of any recovery, as directed by the court, shall be paid to the clerk for reimbursement of all fees and costs incurred by me as a result of being granted leave to proceed *in forma pauperis*.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Signature of Applicant)

I understand that a false statement or answer to any question in this declaration will subject me to penalties of perjury. **I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT.** See 28 U.S.C. § 1746 and 18 U.S.C. § 1621.

Signed at \_\_\_\_\_  
(Location)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Inmate Prison Number)

## FINANCIAL CERTIFICATE

I request that an authorized officer of the institution in which I am confined, or other designated entity, such as Inmate Services for the Nevada Department of Prisons (NDOC), complete the below Financial Certificate.

I understand that:

(1) if I commence a petition for writ of habeas corpus in federal court pursuant to 28 U.S.C. § 2254, the filing fee is \$5.00, and that such fee will have to be paid by me if the court denies my *in forma pauperis* application;

(2) if I commence a civil rights action in federal court pursuant to 42 U.S.C. § 1983, the filing fee is \$400.00 (which includes the \$350 filing fee and a \$50 administrative fee), which I must pay in full; and

(a) if my current account balance (line #1 below) is \$400.00 or more, I will not qualify for *in forma pauperis* status and I must pay the full filing fee of \$400.00 before I will be allowed to proceed with the action;

(b) if I do **NOT** have \$400.00 in my account as reflected on line #1 below, before I will be allowed to proceed with an action I will be required to pay 20% of my average monthly balance (line #2 below), or the average monthly deposits to my account (line #3 below), whichever is greater, and thereafter I must pay installments of 20% of the preceding month's deposits to my account in months that my account balance exceeds \$10.00 (if I am in the custody of the NDOC, I hereby authorize the NDOC to make such deductions from deposits to my account, and I further understand that if I have a prison job, then the 20% of my paycheck that is guaranteed to me as spendable money will be sent to the court for payment of the filing fee); and

(c) I must continue to make installment payments until the \$350.00 filing fee is fully paid, without regard to whether my action is closed or my release from confinement. The \$50 administrative fee will be waived only if I am granted permission to proceed *in forma pauperis*.

Type of action (check one):    ☐ civil rights                      ☐ habeas corpus

\_\_\_\_\_  
INMATE NAME (printed)

\_\_\_\_\_  
SIGNATURE & PRISON NUMBER

-----  
1. CURRENT ACCOUNT BALANCE

\_\_\_\_\_

2. AVERAGE MONTHLY BALANCE\*

\_\_\_\_\_

3. AVERAGE MONTHLY DEPOSITS\*

\_\_\_\_\_

4. FILING FEE (based on #1, #2 or #3, whichever is greater)

\_\_\_\_\_

\* for the past six (6) months, from all sources, including amount in any savings account that is in excess of minimum amount that must be maintained  
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I hereby certify that as of this date, the above financial information is accurate for the above named inmate.

**(Please sign in ink in a  
color other than black.)**

\_\_\_\_\_  
AUTHORIZED OFFICER

\_\_\_\_\_  
DATE

\_\_\_\_\_  
TITLE

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

**INFORMATION FOR FILING AN APPLICATION TO PROCEED  
IN FORMA PAUPERIS BY AN INMATE UNDER 28 U.S.C. § 1915**

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Please use the attached form if you are an inmate. If you are an inmate who is unable to pay the entire filing fee at the time you file your complaint or petition, you must submit a completed inmate's application to proceed *in forma pauperis* to the court. Nev. Local Special Rule ("LSR") 1-1. Your application must include copies of your inmate trust account statement for the past six months and a properly executed financial certificate signed by an authorized officer at your institution.

If you are filing a non-habeas civil action, including a civil rights action pursuant to 42 U.S.C. § 1983, please follow the instructions outlined in Section A. If you are filing a petition for writ of habeas corpus, please follow the instructions outlined in Section B. To submit your application, please follow the instructions outlined in Section C.

If you have the money to pay the full filing fee, please send a check or money order made payable to "CLERK, U.S. DISTRICT COURT" with your complaint or petition.

**A. Non-Habeas Civil Actions**

The fee for filing any civil action other than a petition for writ of habeas corpus is \$400 (which includes the \$350 filing fee and the \$50 administrative fee). If you are granted leave to proceed *in forma pauperis*, you must still pay the \$350 filing fee (but not the \$50 administrative fee) in the form of several installment payments. 28 U.S.C. § 1915(b).

You must pay an initial partial filing fee of 20 percent of the greater of: (a) the average monthly deposits to your account for the 6-month period immediately before the complaint was filed, or (b) the average monthly balance in your account for the 6-month period immediately before the complaint was filed. The court will use the information provided on the financial certificate and the inmate trust account statement to determine the filing fee immediately due and will send instructions to you and the prison or jail trust account office for payment if *in forma pauperis* status is granted.

After the initial partial filing fee is paid, your prison's or jail's trust account office will forward to the court each month 20 percent of the most recent month's income from your prison or jail trust account, to the extent that your account exceeds \$10. Monthly payments will be required until the full filing fee of \$350 is paid. If you have no funds over \$10 in your account, you will not be required to pay a part of the filing fee for that month.

**If your application to proceed *in forma pauperis* is granted, you will be liable for the full \$350 filing fee even if your civil action is dismissed. The court will continue to collect payments until the entire filing fee is paid.**

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## **B. Habeas Actions**

The fee for filing a petition for a writ of habeas corpus is \$5. There is no administrative fee. If you are granted leave to proceed *in forma pauperis*, you will not be required to pay any portion of this fee. If you are not granted leave to proceed *in forma pauperis*, you must pay the \$5 fee in one payment and not in installments.

If you use a habeas form to file a non-habeas civil action, you will be required to pay the fee applicable to all non-habeas civil actions.

## **C. Submission of Application**

To submit your application to proceed *in forma pauperis*, complete the attached form and return the form to the court with your complaint or petition.

In civil actions filed by *pro se* (self-represented) inmates, the action must be filed in the unofficial division of the court in which the inmate is held when the complaint or petition is submitted for filing. Nev. Local Rule ("LR") IA 1-6, 1-8. The Clerk of the Court maintains offices in Las Vegas and Reno at the following addresses:

Unofficial Southern Division (Clark, Esmeralda, Lincoln, & Nye counties):

U.S. District Court Office of the Clerk  
333 Las Vegas Boulevard, South, Room #1334  
Las Vegas, NV 89101

Unofficial Northern Division (all other counties):

U.S. District Court Office of the Clerk  
400 S. Virginia Street, Room #301  
Reno, NV 89501

If you are incarcerated at a facility that uses electronic filing and you are filing a non-habeas action, please continue to use electronic filing.

If you are filing a habeas action, you must submit all of your documents by mail.